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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,775	01/06/2000	Christopher N. Elsbree	ICO-004 (4594/11)	2147
21323	7590	09/23/2004	EXAMINER	
TESTA, HURWITZ & THIBEAULT, LLP HIGH STREET TOWER 125 HIGH STREET BOSTON, MA 02110			NGUYEN, LE V	
			ART UNIT	PAPER NUMBER
			2174	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/478,775

Applicant(s)

ELSBREE ET AL.

Examiner

Le Nguyen

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,8,9,11,12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,8,9,11,12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is responsive to an amendment filed 5/5/04.
2. Claims 1, 3, 5, 8, 9, 11, 12 and 14-16 are pending in this application; claims 1, 8 and 14 are independent claims. This action is made non-final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 12 and 16 contain the trademark/trade name Windows CE. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe an OS and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 5, 8, 9, 11, 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being anticipated by Lincke et al. ("Lincke") in view of Parker et al. ("Parker").

As per claim 1, Lincke teaches a method of creating a graphical human-machine interface, comprising the steps of providing a computer using a first operating system (col. 9, lines 8-9; col. 65, line 59; col. 83, lines 5-29), providing a handheld portable computing device in communication with the computer that uses a second operating system that is less capable than the first operating system (fig. 1; col. 10, lines 33-34), generating on the computer an interactive control software object that provides an interactive graphical human-machine interface when operating on the a handheld portable computing device to allow control of at least one parameter of a process by use of the handheld portable computing device (col. 16, line 46 through col. 17, line 28; col. 22, lines 3-9; col. 22, lines 3-9 and lines 51-57; col. 23, lines 1-5; col. 36, lines 23-25; and, col. 14, lines 2-3; *the computer provides control of at least one parameter such as control of window width parameter of the hand held portable computing device either by using the computer's default settings or querying the handheld portable computing device*), and transferring the interactive control software object from the computer to the

a handheld portable computing device (fig. 1; col. 12, lines 8-12). Lincke does not explicitly disclose simulating on the computer the operation of the interactive control software object, Parker teaches simulating on the computer the operation of the interactive control software object (col. 4, lines 1-6). Therefore, it would have been obvious to an artisan at the time of the invention to include Parker's teaching of simulating on the computer the operation of an interactive control software object to Lincke's teaching of generating on the computer the operation of the interactive control software object so that users may validate the application program's functionality with respect to its use of the GUI or affirm the functionality of the interactive control software object.

As per claim 3, the modified Lincke teaches a method of creating a graphical human-machine interface comprising operating the interactive control software object to provide the interactive graphical human-machine interface on the handheld portable computing device (Lincke: col. 16, line 46 through col. 17, line 28; col. 22, lines 3-9; col. 22, lines 3-9 and lines 51-57; col. 23, lines 1-5; col. 36, lines 23-25; and, col. 14, lines 2-3) and transmitting process control information between the computer and the handheld computing device (Lincke: fig. 1; col. 12, lines 8-12).

As per claim 5, the modified Lincke teaches a method of creating a graphical human-machine interface wherein step (c) comprises generating on the computer the interactive control software object which is processor-independent (fig. 1; col. 9, lines 8-16; *the platform/processor-independent software can run on various devices and platforms*).

Art Unit: 2174

As per claim 6, the modified Lincke teaches a method of creating a graphical human-machine interface wherein the second operating system is a small operating system designed for use with handheld and palm-size PCs (Lincke: fig. 1; col. 9, lines 12-16; *operating system 102 of PDA/wireless communications device 100*).

Claim 8 is similar in scope to claim 1 and is therefore rejected under similar rationale.

Claim 9 is similar in scope to claim 3 and is therefore rejected under similar rationale.

Claim 11 is similar in scope to claim 5 and is therefore rejected under similar rationale.

Claim 12 is similar in scope to claim 6 and is therefore rejected under similar rationale.

Claim 14 is similar in scope to claim 3 and is therefore rejected under similar rationale.

As per claim 15, the modified Lincke teaches a method of creating a graphical human-machine interface wherein step (d) comprises operating the interactive control software object on the handheld portable computing device to display both graphical information and alphanumeric information (col. 16, line 46 through col. 17, line 28; col. 22, lines 3-9; col. 22, lines 3-9 and lines 51-57; col. 23, lines 1-5; col. 36, lines 23-25; and, col. 14, lines 2-3; *displays alphanumeric information such as letters or digits (or both) or control characters, space characters as well as graphical information*).

Art Unit: 2174

Claim 16 is similar in scope to claim 6 and is therefore rejected under similar rationale.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dolan et al. teach an X Window system.

Fitzgerald et al. teaches using a GUI server.

Hartikainen et al. (US6,226,633) teach a method of forming a user interface for a telecommunications exchange.

Kucala (US 5,727,202) teaches a method and apparatus for synchronizing information on two different computer systems.

Martin, Jr. et al. (6,509,913) teach a configurable man-machine interface.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 3, 5, 8, 9, 11, 12 and 14-16 have been considered but are moot in view of the new ground(s) of rejection.

Inquires

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is (703)

Art Unit: 2174

305-7601 or **(571) 272-4068** after 10/20/2004. The examiner can normally be reached on Monday - Friday from 5:30 am to 2:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax numbers for the organization where this application or proceeding is assigned are as follows:

(703) 872-9306 [Official Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

LVN
Patent Examiner
September 20, 2004

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100